

Article - Real Property

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§11A–111.

(a) (1) Prior to the sale of any time-share, and while there exist any time-shares, the managing entity shall maintain for the benefit of the developer, association, and owners property insurance on the time-share project and any personal property available for use by time-share owners, other than personal property separately owned by a time-share owner, insuring against all risks of direct physical loss commonly insured against, in a total amount, after application of any deductibles, of not less than 80 percent of the actual cash value of the insured property, exclusive of land excavations, foundations, and other items normally excluded from property policies.

(2) If such a policy is reasonably obtainable, the policy shall provide that the insurer shall waive its right to subrogation under the policy against any time-share owner or members of his household.

(3) No act or omission by any time-share owner, unless acting within the scope of his authority on behalf of an association, shall void the policy or be a condition to recovery by any other person under the policy.

(4) If, at the time of a loss under the policy, there is other insurance in the name of a time-share owner covering the same risk covered by the policy, the policy maintained pursuant to this section is primary insurance not contributing with the other insurance, and other insurance in the name of a time-share owner applies only to loss in excess of the primary coverage.

(b) Any loss covered by insurance shall be adjusted with, and the insurance proceeds from that loss shall be payable to, the insurance trustee, who may be a party in interest, designated in accordance with the time-share instrument. If none has been designated or if the designated trustee fails to serve, the managing entity shall be the insurance trustee. The insurance trustee shall hold any insurance proceeds in trust for time-share owners and lienholders. The proceeds must be disbursed for the repair or restoration of the property in accordance with this section, and time-share owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is:

(1) A surplus of proceeds after the property has been repaired or restored; or

(2) The project is terminated.

(c) An insurer under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any time-share owner, mortgagee, or beneficiary under a deed of trust. The insurance may not be canceled until 30 days after notice of the proposed cancellation has been mailed to the managing entity and each person to whom a certificate or memorandum of insurance has been issued.

(d) (1) Except to the extent that a project instrument requires otherwise and to the extent of the proceeds available, any portion of the time-share project damaged or destroyed shall be repaired or replaced promptly by the managing entity unless:

(i) Another person repairs or replaces it;

(ii) There is a termination of the time-share project;

(iii) Repair or replacement would be illegal under any State or local health or safety statute or ordinance;

(iv) 50 percent of the time-share owners, including 80 percent of owners of every time-share in a time-share unit that will not be rebuilt, vote not to rebuild; or

(v) A decision not to rebuild the damaged property is made by another person empowered to make that decision.

(2) The cost of repair or replacement in excess of insurance proceeds and reserves shall be a time-share expense.

(3) If the entire time-share project need not be repaired or replaced, unless the time-share instrument provides otherwise:

(i) The insurance proceeds attributable to the damaged area must be used to restore the damaged area to a condition compatible with the remainder of the project; and

(ii) The insurance proceeds attributable to time-share units that are not rebuilt shall be distributed as if those units constituted a time-share project in which all time-shares are terminated.

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